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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,400	02/11/2004	John Snyder	XAW-0302	2389

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LAW OFFICE OF DALE B. HALLING, LLC
655 SOUTHPOINTE COURT, SUITE 100
COLORADO SPRINGS, CO 80906

EXAMINER

VAUGHN, GREGORY J

ART UNIT	PAPER NUMBER
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2178

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/776,400

Applicant(s)

SNYDER, JOHN

Examiner

Gregory J. Vaughn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Action Background

1. This action is responsive to the application filing, application filed on 2/11/2004.
2. Claims 1-21 are pending in the case, claims 1, 14 and 19 are independent claims.

Drawings

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description:

- "60" in Figure 5.

A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

4. The disclosure is objected to because of the following informalities:
 - The disclosure recites "*transformer document 22*" (page 5, line 25). Reference sign 22 of Figure 2 is directed toward a "*Transformer Program*".

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- The disclosure recites “XML system 34” (page 6, line 6).
Reference sign 34 of Figure 2 is directed toward a “XML Stream”.
- The disclosure recites “Lines 64 through 70” (page 6, line 27).
Figure 5 includes only reference signs 64, 66 and 70.
- The disclosure fails to disclose those reference signs listed in paragraph 3 above, which are shown in the drawings.

Appropriate correction is required.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

“Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.”

6. Claims 1-21 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

7. **Regarding claims 1-21**, the claimed invention fails to produce a useful, concrete or tangible result. The claimed invention as a whole must accomplish a practical application. That is, it must produce a *“useful, concrete and tangible result.”* *State Street*, 149 F.3d at 1373, 47 USPQ2d at 1601-02. (See MPEP 2106.) Usefulness under the patent eligibility standard requires significant functionality to be present to satisfy the useful result aspect of the

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practical application requirement. See *Arrhythmia*, 958 F.2d at 1057, 22 USPQ2d at 1036. Merely claiming nonfunctional descriptive material stored in a computer-readable medium does not make the invention eligible for patenting. A process that consists solely of the manipulation of an abstract idea is not concrete or tangible. See *In re Warmerdam*, 33 F.3d 1354, 1360, 31 USPQ2d 1754, 1759 (Fed. Cir. 1994). See also *Schrader*, 22 F.3d at 295, 30 USPQ2d at 1459.

Applicant's invention is directed toward converting a text document into an XML document. Applicant's claims include the steps taken to manipulate (i.e. convert) the nonfunctional descriptive material (i.e. the text document and the XML document), but fail to claim a significant functionality or practical application for the resultant XML document.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

"The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention. "

9. Claims 8 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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10. Claims 8 and 9 recite the limitation "*wherein the text to XML commands*" in first line of the claims. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

"A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language."

12. Claims 1-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Ye et al. US Patent Publication 2004/0083242, filed 10/20/2003, published 4/29/2004 (hereinafter Ye).
13. **Regarding independent claim 1**, Ye discloses converting an input text document into an XML document. Ye recites: "*The prior technologies for locating and transforming the data in a data file includes the XML Converter developed by the Unidex company. The XML Converter transforms the data*

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in the data file having simple and delimited format" (paragraph 5). Ye discloses the resultant XML document does not contain every element that was in the input document. Ye recites: "*when the type of the data unit is not "Text", selecting a different data unit as the location reference for the data unit"* (paragraphs 17-18).

14. **Regarding dependent claims 2 and 3**, Ye discloses the input document as structured and semi-structured text documents. Ye recites: "*the invention has an advantage of being capable to transform data in the data files having various structures"* (paragraph 76).

15. **Regarding dependent claim 4**, Ye discloses the input document with at least two formats. Ye recites: "in order to exchange data, it is firstly needed to understand, analyze and process the original data having different formats" (paragraph 4).

16. **Regarding dependent claims 5-7**, Ye discloses the use of a field separator in the text document (claim 5); wherein the separator is a comma (claim 6) or a regular expression (claim 7). Ye recites: "*For example, it requires the data file to be processed must consist of records, where each record is a sequence of fields. The records and the fields are delimited by separators. The fields that are not delimited must have fixed length"* (paragraph 5). See also the text input document shown in Figure 4, where some of the input text is delimited by commas.

17. **Regarding dependent claim 8**, Ye discloses a match command for the text conversion. Ye recites: *"the above prior art, however, can only apply in specific application environments, and provide the key words matching or semantic analysis"* (paragraph 10).
18. **Regarding dependent claim 9**, Ye discloses an XML tree hierarchy. Ye discloses generating an XML document from an input stream, as described above. XML documents are processed by a parsing process that inherently builds a tree hierarchy structure.
19. **Regarding dependent claims 10 and 11**, Ye discloses the input as streaming text (claim 10) and the output as streaming XML (claim 11). Ye recites: *"It will be understandable that the persons in the art may employ any kinds of software and/or hardware to implement the function of each of the units in the data transforming device according to the invention. For example, the known computer, Web server, network and/or the software running in these facilities may implement the invention"* (paragraph 184).
20. **Regarding dependent claim 12**, Ye discloses a wizard that has a number of queries that are used to define the transformer program. Ye recites: *"the invention has another advantage of enabling a user to flexibly set the extraction rule and output rule on the original data when necessary"* (paragraph 77).

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21. **Regarding dependent claim 13**, Ye discloses the input is from a legacy system. Ye recites: "the specialized data transformation tool is developed for a particular application system, in order to transform an original data into an objective data" (paragraph 3).
22. **Regarding claims 14-18 and 19-21**, the claims are directed toward a process and a system for the system of claims 1-13 and are rejected using the same rationale.

Conclusion

23. The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

<u>Patent/Publication</u>	<u>Date</u>	<u>Inventor</u>
• US-6,519,617 B1	02-2003	Wanderski et al.
• US-7,013,310 B2	03-2006	Messing et al.
• US-7,013,329 B1	03-2006	Paul et al.
• US-2002/0111963 A1	08-2002	Gebert et al.
• US-2004/0044659 A1	03-2004	Judd et al.
• US-2004/0083242 A1	04-2004	Ye et al.
• US-2005/0091418 A1	04-2005	Snover et al.
• US-2005/0091424 A1	04-2005	Snover et al.
• US-2005/0091586 A1	04-2005	Snover et al.
• US-2005/0216555 A1	09-2005	English et al.

24. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Vaughn whose telephone number is (571) 272-4131. The examiner can normally be reached Monday to Friday from 8:00 am to 5:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen S. Hong can be reached at (571) 272-4124. The fax phone number for the organization where this application or proceeding is assigned is (571) 272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gregory J. Vaughn
March 31, 2006

William S. Bashore
WILLIAM BASHORE
PRIMARY EXAMINER
4/2/2006